

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODNEY GREEN,

Defendant.

Case No. 01-80113

Hon. Lawrence P. Zatkoff

ORDER

This matter is before the Court on Defendant's request to dismiss the indictment [dkt 70] and request to proceed *in forma pauperis* [dkt 71]. These documents were filed over five-and-a-half years after the Court of Appeals affirmed Defendant's sentence.

Defendant's request asks that the Court dismiss the indictment because it lacks subject-matter jurisdiction over Defendant. Namely, Defendant argues that the indictment fails to charge Defendant with an offense against the United States.

However, Defendant pleaded guilty to felon in possession of a firearm in violation of 18 U.S.C. § 922(g). That is a federal crime and an offense against the United States. Defendant's remaining claims regarding the form and substance of the indictment are frivolous and are otherwise waived by Defendant's plea agreement. *See Tollett v. Henderson*, 411 U.S. 258 (1973).

Accordingly, Defendant's request to dismiss [dkt 70] and request to proceed *in forma pauperis* [dkt 71] are DENIED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: September 7, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on September 7, 2010.

s/Marie E. Verlinde

Case Manager

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